

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
DOCKET NO. 3:15-cv-00271-MOC

THOMAS R. METCALF,)	
)	
Plaintiff,)	
)	
Vs.)	ORDER
)	
NANCY A. BERRYHILL, Acting Commissioner)	
of Social Security,)	
)	
Defendant.)	

THIS MATTER is before the Court on plaintiff's Motion for Fees under 42 U.S.C. § 406(b). The Acting Commissioner has filed a Response, in which she takes no position on the award of the fee.

Pursuant to 42 U.S.C. § 406(b), whenever the court renders a judgment favorable to a claimant, it may award attorney fees not to exceed 25% of past-due benefits. In the instant case, the fee agreement between the plaintiff and counsel provides for a contingency fee of 25% of past-due benefits. In these circumstances, the reviewing court does not calculate a lodestar amount; it simply reviews the fee claimed for reasonableness. See Mudd v. Barnhardt, 418 F.3d 424, 427-28 (4th Cir. 2005).

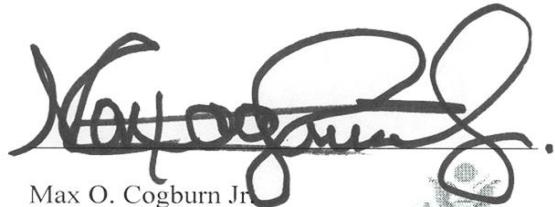
The Court has reviewed the amount requested by counsel in light of the pleadings and finds it to be reasonable. Plaintiff was awarded \$81,072.00 in past-due benefits at the administrative level after this Court entered judgment. In light of the results achieved before this Court and upon

remand, the sum of \$14,268.00 is a reasonable attorney's fee as no factors under Gisbrecht v. Barnhart, 535 U.S. 789 (2002) counsel reduction of the fee award.

ORDER

IT IS, THEREFORE, ORDERED that Motion for Fees under 42 U.S.C. § 406(b) (#15) is **GRANTED**, and the Social Security Administration shall release the sum of **\$14,268.00** to plaintiff's counsel as attorney's fees for services rendered before this court. Plaintiff's counsel shall refund to the Plaintiff the amount of **\$5,000.00** previously awarded and paid to plaintiff's counsel pursuant to the Equal Access to Justice Act.

Signed: September 26, 2018


Max O. Cogburn Jr.
United States District Judge